

**Exemption No. 7465C**

**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
RENTON, WASHINGTON 98055-4056**

In the matter of the petition of

**Pacific Island Aviation, Inc. (PIVA)**

for an exemption from §§ 25.857(c) and  
121.314(c) of Title 14, Code of Federal  
Regulations

**Regulatory Docket No. FAA-2001-8933**

**AMENDED GRANT OF EXEMPTION**

By letter of August 28, 2002, Mr. Aaron A. Goerlich, and Mr. Victor H. Smith, Counsel for Pacific Island Aviation, Inc. (PIVA), Law Offices of Boros & Garofalo, P.C., Suite 550, 1201 Connecticut Avenue, N.W., Washington, D.C. 20036-2644, petitioned the Federal Aviation Administration for an amendment to Exemption No. 7465B, issued to PIVA on April 10, 2002. That grant of exemption from certain requirements of § 121.314(c) allowed PIVA to operate, until August 31, 2002, three SD3-60 airplanes beyond the cargo compartment modification deadline of March 19, 2001. The petitioner requests an extension through October 15, 2002, or through the fifth day after delivery to PIVA, whichever is sooner of three properly configured fire canisters manufactured by Kidde Aerospace.

**The petitioner requests relief from the following regulations:**

**Section 121.314(c)** requires that after March 19, 2001, each Class D compartment, regardless of volume, must meet the standards of §§ 25.857(c) and 25.858 of this Chapter for a Class C compartment unless the operation is an all-cargo operation in which case each Class D compartment may meet the standards in § 25.857(e) for a Class E compartment.

**ANM-02-606-E**

**Section 25.857(c)** requires that a Class C cargo or baggage compartment have:

1. A separate approved smoke detector or fire detector system to give warning at the pilot or flight engineer station,
2. An approved built-in fire extinguishing or suppression system controllable from the cockpit,
3. Means to exclude hazardous quantities of smoke, flames, or extinguishing agent, from any compartment occupied by the crew or passengers, and
4. Means to control ventilation and drafts within the compartment so that the extinguishing agent used can control any fire that may start within the compartment.

**Section 25.858** requires:

- (a) The detection system must provide a visual indication to the flightcrew within one minute after the start of a fire,
- (b) The system must be capable of detecting a fire at a temperature significantly below that at which the structural integrity of the airplane is substantially decreased.
- (c) There must be means to allow the crew to check in flight, the functioning of each fire detector circuit, and
- (d) The effectiveness of the detection system must be shown for all approved operating configurations and conditions.

**The petitioner's supportive information is as follows:**

“On April 10, 2002, Exemption No. 7465B was issued to Pacific Island Aviation, Inc. (PIVA). Under the exemption, so long as prescribed requirements are met, PIVA is exempt from the provisions of § 121.314(c) of the Federal Aviation Regulations to the extent necessary to allow PIVA to operate its three Shorts SD3-60 airplanes with Class D cargo compartments through August 31, 2002, or through the 30 days after delivery to PIVA of aircraft modification kits by the aircraft manufacturer, whichever is sooner. (The prescribed requirements include: (i) development and implementation of a Checked Baggage HAZMAT Screening Process; (ii) the carriage of two fire extinguishing bottles (as well as a third one on the flight deck); (iii) implementation of certain flight time limitations; (iv) the carriage of no hazardous material; and (v) the submission of a monthly progress report.).

“Until this week, PIVA was on schedule to complete modification of each aircraft by the August 31, 2002 deadline. PIVA’s anticipated completion of all modifications was predicated on the understanding that the kits delivered by Shorts met all design specifications. However, as more fully described by Shorts program manager Michael Mulholland in attached Exhibit A, [available in the Docket] on power-up of the first modified aircraft, the cockpit discharge light illuminated indicating that the pressure switch on the fire bottle, which had been installed as part of the modification kit, was incorrectly manufactured. The other bottles in PIVA’s possession were checked and found to be similarly misconfigured. Consequently, all bottles must be re-worked by the manufacturer.

“Given the very recent discovery of this problem, coupled with PIVA’s remote South Pacific location, there is no way for PIVA to transmit the bottles to the manufacturer, allow time for bottle modification, and re-install the re-worked fire bottles prior to the August 31 deadline. Further, since the subject fire bottles have been specially configured to conform to the design specifications of the modification kits, only the existing manufacturer (Kidde Aerospace), which is located in North Carolina, can perform the necessary modifications.

“PIVA has contacted Kidde Aerospace directly and has been provided assurances that re-worked bottles will be shipped to PIVA on an expedited basis. However, due to the hazardous material restriction on shipment of the subject canisters on passenger flights, the canisters will need to be shipped on cargo aircraft. Since there is very limited all-cargo service to and from Saipan, where PIVA is based, this will create an additional but unavoidable delay. Kidde has outlined its projected delivery schedule for the replacement canisters in a letter agreement with PIVA that is attached as Exhibit B [available in the Docket].

“In light of these developments, and given that PIVA has made every effort to complete its installation of the modification kits by the August 31 deadline, PIVA requests that Exemption No. 7465B be amended to modify the final compliance deadline to five (5) days after delivery to PIVA of three properly-configured fire canisters. In the alternative, PIVA requests that the August 31 deadline be extended to October 15, 2002, which should provide sufficient time for delivery and installation of the re-worked fire canisters.

“In support of this urgent request, PIVA respectfully incorporates herein by reference the information summarized at pages 2-4 of Exemption No. 7465B, as well as the corresponding FAA findings and conclusions [available in the Docket]. There has been no change in PIVA’s status as an Essential Air Service (EAS) provider, and an interruption or cessation of PIVA’s service would have a substantial adverse effect upon the local economies of the Northern Mariana Islands. (We [PIVA] are informed by Shorts that Freedom Air, another part 121 carrier providing EAS to the Northern Mariana Islands utilizing Shorts aircraft, is facing compliance delays similar to those of PIVA due to non-conforming fire canisters. PIVA and Freedom Air are the only carriers providing scheduled service to the islands of Tinian and Rota.) Further, PIVA’s continued

compliance with the operational conditions and limitations prescribed by Exemption No. 7465B will assure there is no adverse effect upon the level of safety provided by the regulations, as the FAA found in Exemption No. 7465B (page 5) [available in the Docket]. In short, continued relief is very much in the public interest.

“Finally, as before, good cause exists for waiver of any advance-filing or *Federal Register* publication requirement in relation to this petition, particularly since only an extension is requested, as distinguished from a substantive change to the exemption. Further, given the recent discovery of the noncompliant fire canisters, the usual 120-day advance filing requirement could not be met.”

### **Notice and Public Procedure**

The FAA has determined that good cause exists for waiving the requirement for Federal Register publication because any delay in acting on this petition would be detrimental to Pacific Island Aviation, Inc. (PIVA).

### **The Federal Aviation Administration's analysis/summary is as follows:**

In granting the previous exemption extension, the FAA thought that the last 138-day extension was reasonable. We now recognize that due to apparent difficulties encountered by the petitioner, compliance cannot be met under the terms of Exemption No. 7465B and a further extension is now being sought.

Prior to the submittal of the petition, in a teleconference on August 28, 2002, the petitioner was advised that granting an extension of the compliance date to his petition for exemption was predicated upon receipt by the FAA of paperwork showing: (1) a detailed explanation of the problem encountered by the petitioner that resulted in its inability to meet the August 31, 2002, deadline, and (2) a confirmation from the fire bottle manufacturer (Kidde Aerospace) to the petitioner of a firm delivery date.

The FAA considers that receipt of the following information constitutes fulfillment of the paperwork requirements: (1) email-letter dated August 28, 2002, from the aircraft manufacturer, Shorts, of an explanation of the problem, and (2) e-mail letter from Kidde Aerospace dated August 28, 2002, confirming a delivery date of September 30, 2002, of the modified bottles.

To extend this exemption, we have determined that it is necessary to retain the same additional conditions relative to the previous exemption to minimize the possibility of fire in the cargo compartment and to minimize its impact, should a fire occur, in order to provide an acceptable level of safety.

This amendment refers to the same airplanes identified in the section “Description of Each Aircraft to be Covered” in Exemption No. 7465 [available in the Docket].

In consideration of the foregoing, I find that a grant of exemption is in the public interest and will not adversely affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator, the petition of Pacific Island Aviation, Inc. (PIVA) for an amendment to Exemption 7465B from the provisions of § 121.314(c) is hereby granted. This exemption is granted to the extent necessary to allow PIVA’s three Model SD3-60 airplanes to operate through October 15, 2002, or through the fifth day after delivery to PIVA of three properly configured fire-canisters by Kidde Aerospace, whichever is sooner.

All other provisions of Exemption 7465B, together with associated conditions and limitations, remain the same and are applicable to this amendment. This amendment is part of, and shall be attached to, Exemption 7465B.

Issued in Renton, Washington, on August 30, 2002.

*/s/ Kalene C. Yanamura*

Kalene C. Yanamura  
Acting Manager  
Transport Airplane Directorate  
Aircraft Certification Service